

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: Steven A. Shaya et al. Confirmation No.: 7651  
Application No.: 09/981516 Group No.: 3627  
Filed: October 17, 2001 Examiner: Maria Teresa T. Thein  
For: INTELLIGENT PERFORMANCE-BASED PRODUCT  
RECOMMENDATION SYSTEM

**Commissioner for Patents**  
**P.O. Box 1450**  
**Alexandria, VA 22313-1450**

**Disclosure Letter**  
**Patent Term Adjustment Determination**  
**37 CFR 1.705**

Sir:

Upon review of the Notice of Allowance and Fee(s) Due (PTOL-85) mailed February 23, 2010, applicant reviewed the USPTO's PTA calculation of 1638 days. In compliance with the practitioner's duty of candor and good faith in practice before the Office, applicant wishes to disclose that the PTA of 1638 days calculated by the USPTO may be longer than appropriate.

It appears that the USPTO determined that the Examiner's Answer to the Appeal Brief mailed on November 13, 2007, was 106 days of PTO delay. However, the PTO determined that the Appeal Briefs filed on April 2, 2007, and June 21, 2007, were defective. It may be appropriate to begin the PTO's 4-month response term from August, 13, 2007, the date on which the final Appeal Brief was filed. Thus, there may be 0 days of PTO delay for the Examiner's Answer.

Further since the PTO determined that Appeal Briefs submitted on April 2, 2007, and June 21, 2007, were defective, the PTA may account for 80 days and 53 days respectively for a total of 133 days of applicant delay when the compliant Appeal Brief was finally filed on August 13, 2007 (applicant has 3-months to submit the appeal brief after submission date of the Notice of Appeal on February 2, 2007).

In addition, Applicant would like to call the USPTO's attention to the fact that applicant believes it is entitled to an additional 500 days in accordance with the Wyeth v. Kappos,

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**CERTIFICATION UNDER 37 C.F.R. § 1.8**

I hereby certify that, on the date shown below, this correspondence is being transmitted to the USPTO via the electronic filing system in accordance with 37 CFR 1.6(a)(4)

Date: May 20, 2010

\_\_\_\_\_  
/Margaret Turner/  
Signature  
Margaret Turner, Patent Paralegal  
(type or print name of person certifying)

F.3d (Fed. Cir. 2010) ruling and hereby requests that the patent term be adjusted accordingly at the time of issuance.

Although the Applicant generally agrees with the Office's PTA calculation, Applicant respectfully requests that the Office review the PTA calculation for this application, and if necessary, adjust the term as appropriate.

Date: May 20, 2010  
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